

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION**

MIRACLE HURSTON,)	
)	
Plaintiff,)	
)	
v.)	Case No. 1:19-cv-04890-TWP-DLP
)	
DOES I through X, ROE BUSINESS ENTITIES I)	
through X and PENN NATIONAL GAMING,)	
INC. d/b/a HOLLYWOOD CASINO,)	
)	
Defendants.)	

**ENTRY ON MOTION TO DISMISS (DKT. 14), AND
MOTION TO AMEND COMPLAINT (DKT. 17)**

This matter is before the Court on a Motion to Dismiss filed by Defendant Penn National Gaming, Inc. d/b/a Hollywood Casino ("Hollywood Casino"), (Dkt. 14). Also before the Court is a Motion to Amend Complaint and Amended Complaint, (Dkt. 17), filed by *pro se* Plaintiff Miracle Hurston ("Hurston"). On December 11, 2019, Hurston initiated this action by filing a Complaint, (Dkt. 1), which he promptly amended as a matter of right on January 21, 2020. (Dkt. 5.) Thereafter, on March 30, 2020, Hollywood Casino moved for dismissal of the Amended Complaint, alleging that Hurston had failed to state a claim upon which relief can be granted.

In response to the Motion to Dismiss, on April 17, 2020, Hurston filed a Motion to Amend his Complaint. Citing Federal Rule of Civil Procedure 15(a)(2), Hurston assert that a court should freely give leave to amend a complaint when justice so requires and states that he "wishes to address deficiencies of failing to state a claim upon which relief can be granted and would like to seek injunctive relief for the Title II of the Civil Rights act [sic] 42 U.S.C 2000a cause of action." (Dkt. 17.) He also wishes to remove the harassment, retaliation, and conspiracy causes of action and to add a 42 U.S.C. § 1981 cause of action to the Complaint. *Id.* The Court determines that

justice requires that Hurston be allowed to amend his Complaint.

For the reasons stated above, the Court **GRANTS** Hurston's Motion to Amend, Dkt. [17], and the Amended Complaint contained in Dkt. 17 is now the operative Complaint in this action. Hollywood Casino's Motion to Dismiss, Dkt. [14], is therefore **DENIED as moot**.

A ruling on the subsequently filed Motion to Dismiss, (Dkt. 20) (which is now ripe for ruling), will issue in due course in a separate order. In addition, the Court will address Hurston's second Motion to Amend, (Dkt. 27), as well as Hollywood Casino's Motion to Stay Proceedings, (Dkt. 29).

SO ORDERED.

Date: 6/5/2020



TANYA WALTON PRATT, JUDGE
United States District Court
Southern District of Indiana

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